

New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Selected Aspects of Discretionary Spending

New York State Energy Research and Development Authority



Report 2012-S-157

September 2014

Executive Summary

Purpose

To determine whether discretionary spending by the New York State Energy Research and Development Authority complied with its prescribed procedures and such expenses were reasonable, adequately supported, and properly approved. The audit covers the period from April 1, 2010 through March 31, 2012.

Background

The New York State Energy Research and Development Authority (Authority) was created in 1975 to use innovation and technology to solve some of New York's most difficult energy and environmental problems in ways that improve the State's economy. The Authority places a premium on objective analysis, collaboration, outreach to obtain multiple perspectives, and information sharing. According to Authority officials, the Authority is committed to public service and strives to be a model of what taxpayers expect from government.

During the audit period, we identified approximately \$7.0 million of Authority spending, which was discretionary in nature. Each public authority should have formal policies and procedures specifying which types of discretionary costs are appropriate and dollar thresholds, as appropriate, for such items. In addition, the policies should prescribe the types of supporting documentation and formal approvals that are necessary.

Key Findings

- Of the 137 sampled payments we reviewed, we questioned 46 payments totaling about \$102,000. In certain instances, the Authority did not have policies and procedures to ensure the propriety and reasonableness of the discretionary expenses. In other instances, existing Authority policy was not followed, or there was no documentation of the necessity for the purchases or their relationship to the Authority's core mission.
- Among the questionable expenses were payments for meetings, memberships in professional organizations, and training. In addition, an Authority procurement card was used for personal items and other questionable items, such as movie tickets to be sold to employees.

Key Recommendations

- Examine written policies and procedures to ensure they adequately address the various forms of Authority discretionary spending. The policies and procedures should include (but not be limited to): the definitions of such costs, the required written justification for them, the allowable dollar thresholds, and the formal approvals and supporting documentation required.
- Complete actions to strengthen procurement card policy and thereby deter employees from making personal charges with Authority-issued cards. Require formal justification for purchases charged to procurement cards.

Other Related Audits/Reports of Interest

[Battery Park City Authority: Selected Aspects of Discretionary Spending \(2012-S-158\)](#)

[State University Constuction Fund: Selected Aspects of Discretionary Spending \(2013-S-14\)](#)

**State of New York
Office of the State Comptroller**

Division of State Government Accountability

September 30, 2014

Mr. Richard L. Kaufman
Chairman
New York State Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399

Dear Mr. Kaufman:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Selected Aspects of Discretionary Spending*. This audit was performed pursuant to the State Comptroller's authority under Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*

Table of Contents

Background	4
Audit Findings and Recommendations	5
Insufficient Policies and Procedures	5
Noncompliance with Guidelines	5
Other Matters	6
Recommendations	6
Audit Scope and Methodology	6
Authority	7
Reporting Requirements	7
Contributors to This Report	8
Agency Comments	9

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This report is also available on our website at: www.osc.state.ny.us

Background

Certain public authority costs pertain directly to the operating purpose of the entity. For example, a transportation authority expense to pay for vehicle fleet maintenance is an operating cost. However, a public authority also incurs “discretionary” costs to pay for expenses that indirectly support the primary operating purpose. For example, discretionary costs include expenses for travel and entertainment and employee professional development. As with operating costs, discretionary costs must relate to the mission of the public authority; be necessary; and be incurred at the lowest reasonable cost. Expenses must not be incurred for the personal benefit of the board of directors, management, or staff. Each public authority should have formal policies and procedures specifying the types of discretionary costs that are appropriate, as well as the dollar thresholds, supporting documentation, and formal approvals that are necessary to be accountable for such costs.

The New York State Energy Research and Development Authority (Authority) was created in 1975 to use innovation and technology to solve some of New York’s most difficult energy and environmental problems in ways that improve the State’s economy. The Authority places a premium on objective analysis, collaboration, outreach to obtain multiple perspectives, and information sharing. According to Authority officials, the Authority is committed to public service and strives to be a model of what taxpayers expect from government.

During the audit period, we identified approximately \$7.0 million of Authority spending that was discretionary. To determine if the Authority’s discretionary costs supported its mission and were appropriate, properly approved, and adequately supported with documentation, we examined 137 payments for discretionary costs totaling \$240,177 for the two fiscal years ended March 31, 2012.

Audit Findings and Recommendations

Of the 137 sampled payments we reviewed, we questioned 46 payments totaling about \$102,000. In certain instances, the Authority did not have policies and procedures to ensure the propriety and reasonableness of the discretionary expenses. In other instances, existing Authority policy was not followed, or there was no documentation of the necessity for the purchases or their relationship to the Authority's core mission.

Insufficient Policies and Procedures

The Authority does not have formal policies and procedures to ensure the propriety and reasonableness of several types of discretionary expenses, including meetings and other events, memberships in professional organizations, sponsorships, and training. Such policies would address not only what constitutes a proper discretionary expenditure, but also what would be considered an improper use of those funds. The policies should also provide guidance as to reasonable amounts for such expenses; require the formal prior approval of an appropriate official; and identify the required documentation to justify the nature and purpose of such expenses. In the absence of policies and procedures, we questioned 19 Authority discretionary expenses, including:

- Eight payments totaling \$75,175 for memberships in various organizations and new online subscriptions. Authority officials did not document the benefits of these expenditures.
- Six payments totaling \$7,370 for training courses. In most cases, there was no supporting documentation for the training. In some cases, there was information about the nature of training course, but there was no documentation of how the training was related to the Authority's purpose or mission; and
- Five payments totaling \$4,448 to attend various conferences, including one in Washington, D.C. The Authority did not document the reasons for sending employees to the conferences or the benefits to the Authority.

Noncompliance with Guidelines

The Authority has written procurement card policies and procedures that include avoiding the use of the corporate credit card for personal, non-business charges. However, employees of the Authority are not required to provide a detailed business need, including the benefit to the Authority for the purchase. The Authority needs to expand and clarify the guidance to employees to require detailed justification of why the purchase is necessary and the benefit to the Authority.

We identified eight payments, totaling \$1,061, where the procurement card was used by employees for personal purchases, such as gasoline and lodging. Authority officials explained the employees accidentally used the procurement card and they repaid the amounts. We brought these instances of personal charges to the attention of Authority officials, who agreed that these payments were in violation of Authority policy. The Authority plans to strengthen the policy by requiring written counseling of employees who violate it. Further, employee procurement cards

will be revoked for repeat violations of the Authority's policy.

The Authority has a policy that states that a new employee may be reimbursed for moving household goods and personal effects for a relocation in excess of 50 miles. The employee is expected to negotiate the best price available and may be required to obtain competitive bids. The maximum allowable amount of reimbursement for relocation expenses should be documented in advance by the Director of Human Resources. In addition, rent is not a reimbursable expense. We sampled four payments for employee relocation and questioned one payment of \$828 for rent, which was contrary to Authority policy.

Other Matters

The Authority made other questionable discretionary purchases using procurement cards. The majority of these expenditures were for retail store purchases, including employee service award gifts, staff appreciation awards, and movie theater tickets. We questioned 13 such payments totaling \$10,875 because there was no documented support for the necessity of these purchases or their relationship to the Authority's core purpose or mission. We also questioned five payments, totaling \$2,475, for parking tickets and for tickets to be sold to employees for an employee recreational trip. There was no documentation of the need for these purchases or their relationship to the Authority's program.

Recommendations

1. Examine written policies and procedures to ensure they adequately address the various forms of Authority discretionary spending. The policies and procedures should include (but not be limited to): the definitions of such costs, the required written justification for them, the allowable dollar thresholds, and the formal approvals and supporting documentation required.
2. Complete actions to strengthen procurement card policy and thereby deter employees from making personal charges with Authority-issued cards. Require formal justification for purchases charged to procurement cards.
3. Ensure that discretionary costs, including those for employee relocations, fully comply with the Authority's policies and procedures.

Audit Scope and Methodology

We audited to determine whether discretionary spending by the New York State Energy Research and Development Authority complied with its prescribed procedures and such expenses were reasonable, adequately supported, and properly approved. The audit covered the period from April 1, 2010 through March 31, 2012.

To accomplish our objective, we reviewed policies, procedures, and guidelines related to submitting of and paying for discretionary expenditures. We interviewed Authority officials and

employees to obtain an understanding of internal controls relevant to discretionary spending. We identified discretionary expenditures that were at a higher risk for questionable payments. We selected a judgmental sample of payments, focusing on those that had a high value and/or occurred more frequently. We reviewed the supporting documentation for these 137 payments totaling \$240,177.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

Reporting Requirements

A draft copy of this report was provided to Authority officials for their review and comments. Their comments were considered in preparing this final report and are attached in their entirety at the end of the report. Authority officials generally concurred with our recommendations and indicated that actions have been or will be taken to address them.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Chairman of the New York State Energy Research and Development Authority shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments



September 24, 2014

Carmen Maldonado, Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

RE: Response to draft audit report, Selected Aspects of Discretionary Spending (2012-S-157)

Dear Ms. Maldonado:

Thank you for your office's draft audit report on Discretionary Spending. We appreciate the recommendations offered for improving the documentation of certain types of NYSERDA expenditures. In general, we agree with your office's conclusion that there is an opportunity to improve the documentation regarding the necessity and benefits to the Authority of certain expenditures.

NYSERDA takes very seriously your office's findings that in specific cases NYSERDA could improve upon its policies and procedures regarding approvals of discretionary expenditures. While we are always looking for opportunities to improve our policies, procedures and practices, and appreciate the recommendations provided in the report, we also strongly believe that we are headed in the right direction with regard to documentation of expenses across all our programs.

In furtherance of NYSERDA's effort to continue to comply with its existing policies, to improve its policies and to adhere to the November 2012 guidance of the Public Authorities Budget Office (ABO), which states that boards of directors and authority management have an obligation to authorize the expenditure of funds only for purposes that relate to and support the mission of the authority, please find below both our responses to each of the recommendations included in the draft report, and notes regarding certain issues related to that report.

Recommendation #1: Examine written policies and procedures to ensure they adequately address the various forms of Authority discretionary spending. The policies and procedures should include (but not be limited to): the definitions of such costs, the required written justification for them, the allowable dollar thresholds, and the formal approvals and supporting documentation required.

Response: NYSERDA's Personnel Handbook clearly states that reasonable travel expenses will be reimbursed "when in the conduct of official business," and travel is considered for approval based upon the "overall benefit to the Authority"; it is required throughout the Authority's travel policy that the expenses incurred provide the "greatest benefit to NYSERDA" of the options available. Certainly, the authority strives in every respect to comport with the November 2012 guidance of the ABO. Notwithstanding, we concur with the recommendation that we continue to ensure that policies and procedures address these elements and we are in the process of reviewing and revising such policies and procedures as necessary.

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Recommendation #2: Complete actions to strengthen procurement card policy and thereby deter employees from making personal charges with Authority-issued cards. Require formal justification for purchases charges to procurement cards.

Response: In April 2013, we revised policies to state that NYSERDA corporate credit cards must not be used for personal charges and repeated use may result in loss of the card or disciplinary action. We will review documentation requirements for credit card purchases.

Recommendation #3: Ensure that discretionary costs, including those for employee relocations, fully comply with the Authority's policies and procedures.

Response: The relocation cost payment noted in your office's report, which included rent, was approved as an exception to the policy by the Treasurer. We will revise policies to provide explicit authority for deviations from policies and indicate the Authority official authorized to approve such exceptions.

I would also like to provide further clarification regarding both the methodology of the report and specific transactions. First, the audit tested a relatively small sample of transactions using a judgmental sampling approach. Therefore, we believe that the report should note that the results are not intended to be representative of the transactions not tested.

Second, in certain cases involving a perceived lack of documentation regarding discretionary expenses, we have provided your office with additional documentation that supported the decision that the expenditure benefited the Authority and was related to its mission and programs. Moreover, it is our position that the costs included in many of the dollar figures reported in the draft as "undocumented" were, on their face, and even without additional documentation, clearly and closely related to the mission of the Authority. For example, you note in your report that documentation was lacking for more than \$75,000 for memberships in various organizations – the large majority of those costs were for membership in the Alliance to Save Energy, the largest energy efficiency trade organization in the country. Similarly, you note with regard to training courses at, for example, the American Council for an Energy Efficient Economy, the Renewable Energy Finance Forum Wall Street, the New Buildings Institute and the American Council for an Energy Efficient Economy, "there was no documentation of how the training was related to the Authority's purposes or mission." It is our position that the nexus to NYSERDA's mission is clear from the nature of the training itself.

Third, I would like to clarify certain details related to specific transactions highlighted in the draft report:

- The report notes that your office identified \$8.3 million of Authority spending that was "discretionary." Your office provided the detail of this calculation to us and we noted that there was approximately \$1.3 million of transactions which were counted twice. Your office indicated that it would revise the report to \$7.0 million.
- The report notes eight payments totaling \$75,175 for memberships, but, in addition to the issue addressed above regarding documentation of these costs, these figures include three payments totaling \$73 which were for new on-line subscriptions.
- The report notes eight payments totaling \$1,061 where credit cards were used for personal purchases, but three of these payments totaling \$752 were not personal purchases, but rather fraudulent credit card charges (due to apparent identity theft), which had appeared on one staff member's credit card. The charges were promptly reported and credited to the Authority by the credit card company prior to the audit.

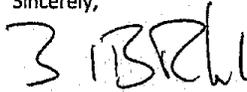
*
Comment

*The report was revised to reflect information in the response.

- For the remaining five payments totaling \$309 noted as personal charges, the report noted these as violations of Authority policy, but we disagree. The prior policy stated "Employees should avoid using the corporate credit card for charges of a personal nature." The policy required that any personal charges be promptly reported in the travel and credit card reporting system, and offset against other out-of-pocket travel costs due the employee or reimbursed to the Authority. This was done for each of the five transactions. As noted above, we agree that the policy should be revised – and have already done so – to state that credit cards must (rather than should) not be used for personal purchases and repeated use will be subject to loss of credit card privileges.
- Last, you note in your report that certain tickets sold to employees were questionable; in each of these instances, however, NYSERDA purchased small quantities of tickets and then sold them to employees at cost, and thus there was no net expenditure of NYSERDA funds for these tickets.

We look forward to continuing to improve our processes and procedures, and thank you for the opportunity to provide comment on the draft report.

Sincerely,



John B. Rhodes
President and CEO